

IN THE MATTER OF THE 2022 * IN THE
LEGISLATIVE DISTRICTING OF * COURT OF APPEALS
THE STATE OF MARYLAND * OF MARYLAND

* **MISC. NOS. 21, 24, 25, 26, and
27**

* **SEPTEMBER TERM, 2021**

**INTERIM SCHEDULING ORDER NO. 2
OF SPECIAL MAGISTRATE**

WHEREAS, on January 28, 2022, the Court of Appeals entered a scheduling order to govern proceedings that may be brought to challenge the 2022 Legislative Districting Plan adopted by the General Assembly. Among other things, the order required any voter intending to challenge the Plan to file a petition with the Clerk of the Court on or before 4:30 p.m. on Thursday, February 10, 2022.

WHEREAS, on February 9, 2022, David Whitney filed a petition alleging that his home legislative district, which he did not identify, ran from the Broadneck peninsula on the Western Shore of the Chesapeake Bay all the way across the Bay to the Eastern Shore without any land connecting the two parts of the district. Specifically, he claimed that the plan “creates a corridor extending from deep into the Western shore from Laurel eastward, snaking up to Pasadena, just south of Baltimore and way down below Annapolis to the South River but cutting out portions of Annapolis, where off Hudson Street they appear to have targeted a single home, drawing the boundaries around that home.”

WHEREAS, the Attorney General moved to dismiss Mr. Whitney's petition on several grounds, including that the district he was describing appeared to be a Congressional district, not a General Assembly district, and that his petition did not belong in this case.

WHEREAS, during the scheduling conference conducted on February 17, 2022, Mr. Whitney was questioned about the identity of the district he had challenged, and he responded that he was challenging several General Assembly districts. Unaware of any General Assembly district that had the configuration he described, the Special Magistrate directed him to amend his petition to specify the district(s) he was challenging.

WHEREAS, the next day, on February 18, 2022, Mr. Whitney filed a new petition challenging his home legislative district 33, which he claimed was "chopped into three subdistricts for no apparent reason other than it would prove more favorable to one party than the other." He charged as well that due regard had not been given to the boundaries of Districts 21, 22, 24, 25, 26, 27B, and 30A, all of which, like District 33, are entirely on the Western Shore.

WHEREAS, the Attorney General responded on February 22, 2022 with a motion to dismiss the new petition on several grounds, including that it was, in fact, an entirely new claim that did not relate back to the initial one. In that regard, the Special Magistrate notes the January 28, 2022 Order of the Court of Appeals that "[a]ny registered voter of the State who contends that the 2022 legislative districting plan, or any part thereof, is invalid shall file a petition, on or before Thursday, February 10, 2022 at 4:30 p.m. with the Clerk of this Court and serve it on the Attorney General of Maryland in accordance with Maryland Rules 2-124 and 20-205."

In light of these events, the Special Magistrate hereby Orders that Mr. Whitney show cause, in writing, on or before Wednesday, March 2, 2022, why his petition filed

with the Court on February 9, 2022 should not be regarded as abandoned and his petition filed on February 18, 2022 should not be dismissed with prejudice as untimely. Mr. Whitney shall contemporaneously serve a copy of his response on the Attorney General and e-mail a copy to the Special Magistrate.

/s/ Alan M. Wilner
Alan M. Wilner
Special Magistrate

Filed: February 24, 2022

Pursuant to Maryland Uniform Electronic Legal Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document is authentic.

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland



Suzanne C. Johnson, Clerk